

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

DAVID LENIHAN and JAN LENIHAN,

Plaintiffs,

v.

COMPUTER ASSOCIATES
INTERNATIONAL, INC.,

Defendant.

C.A. No. 04-11701-DPW

NOTICE OF FILING CERTIFIED COPIES OF STATE COURT PROCEEDINGS

Pursuant to Local Rule 81.1, defendant Computer Associates International, Inc., hereby files certified copies of all records and proceedings in Middlesex Superior Court Civil Action No. 04-2494, which was removed to this Court on August 2, 2004.

Respectfully submitted,

COMPUTER ASSOCIATES
INTERNATIONAL, INC.

By its attorneys,

HOLLAND & KNIGHT LLP

/s/ David J. Santeusanio

Paul G. Lannon, Jr. (BBO # 563404)

David J. Santeusanio (BBO # 641270)

10 St. James Avenue

Boston, Massachusetts 02116

(617) 523-2700

Dated: August 5, 2004

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CERTIFICATE OF SERVICE

I hereby certify that on August 5, 2004, I electronically filed a Notice of Filing Certified Copies of State Court Proceedings with the Clerk of Court using the CM/EMF system, which will send notification of such filing to the following attorneys of record:

Peter H. Noone, Esq.
Avery, Dooley, Post & Avery, LLP
90 Concord Avenue
Belmont, MA 02478

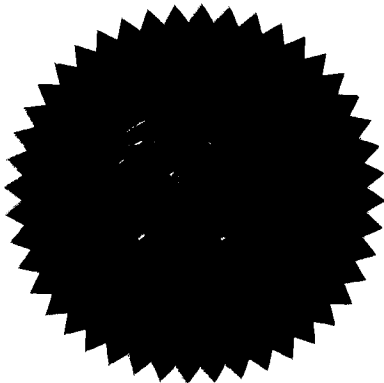
Paul G. Lannon, Jr., Esq.
Holland & Knight LLP
10 St. James Avenue
Boston, MA 02116

/s/ David J. Santeusanio
David J. Santeusanio, Esq.
Holland & Knight LLP
10 St. James Avenue
Boston, Massachusetts 02116

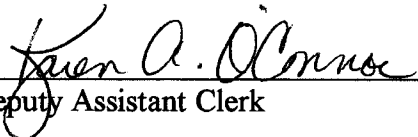
**Commonwealth of Massachusetts
SUPERIOR COURT DEPARTMENT
THE TRIAL COURT
CAMBRIDGE**

MICV2004-02494

I, Karen O'Connor, Deputy Assistant Clerk of the Superior Court, within and for said County of Middlesex, do certify that the annexed papers are true copies made by photographic process of pleadings entered in the Superior Court on the 21st of June, in the year of our Lord, Two Thousand Four



In testimony whereof, I hereunto set my hand and affix the seal of said Superior Court, at Cambridge, in said County, this 2nd of August, in the year of our Lord, Two Thousand Four


Deputy Assistant Clerk

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss.

2
SUPERIOR COURT
CIVIL ACTION NO. 04-2494

DAVID LENIHAN and JAN LENIHAN,

Plaintiffs,

v.

COMPUTER ASSOCIATES
INTERNATIONAL, INC.,

Defendant.

NOTICE OF FILING NOTICE OF REMOVAL

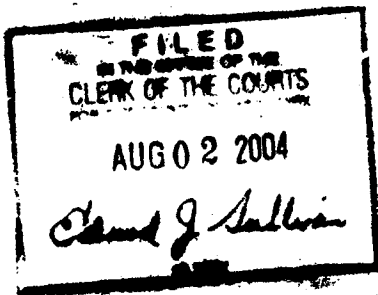
Please take notice that on August 2, 2004, defendant Computer Associates International, Inc., filed in the United States District Court for the District of Massachusetts its Notice of Removal of this action to the United States District Court. A copy of the Notice of Removal is attached as Exhibit A.

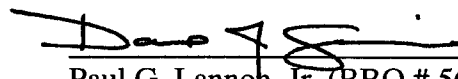
Pursuant to 28 U.S.C. § 1446(d), this notice is hereby provided to the Superior Court of the Commonwealth of Massachusetts, Middlesex County, to effect removal.

Respectfully submitted,
COMPUTER ASSOCIATES
INTERNATIONAL, INC.

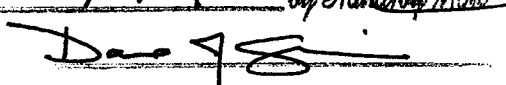
By its attorneys,

HOLLAND & KNIGHT LLP




Paul G. Lannoh, Jr. (BBO # 563404)
David J. Santeusano (BBO # 641270)
10 St. James Avenue
Boston, Massachusetts 02116
(617) 523-2700

Dated: August 2, 2004

Notary Public, under the power and penmanship
2121053 *certifying that this document was served upon*
counsel for all parties in this case on
8/2/04 by Hand/Delivered


COPY

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

DAVID LENIHAN and JAN LENIHAN,

Plaintiffs,

v.

COMPUTER ASSOCIATES
INTERNATIONAL, INC.,

Defendant.

2004 AUG -2 CIVIL ACTION NO. 04-2494

04 11701 DPW



I HEREBY ATTEST AND CERTIFY ON 8/2/04
THAT THE FOREGOING DOCUMENT IS A FULL, TRUE
AND CORRECT COPY OF THE ORIGINAL ON FILE
IN MY OFFICE AND IN MY LEGAL CUSTODY.

CLERK, U.S. DISTRICT COURT
DISTRICT OF MASSACHUSETTS

BY: [Signature]

NOTICE OF REMOVAL

Computer Associates International, Inc. ("Computer Associates") hereby gives notice that pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, it is removing this action from the Commonwealth of Massachusetts Superior Court, Middlesex County, to the United States District Court for the District of Massachusetts. The grounds for removal are set forth below.

1. Computer Associates is the defendant in a civil action filed by David Lenihan and Jan Lenihan in the Commonwealth of Massachusetts Superior Court, Middlesex County, captioned *David Lenihan and Jan Lenihan v. Computer Associates International, Inc.*, Civil Action No. 04-2494 ("the Pending Action"). The Summons and Complaint in the Pending Action were served on Computer Associates on July 9, 2004. This Notice, therefore, is timely filed. See 28 U.S.C. § 1446(b).

2. Computer Associates is a Delaware corporation with its principal place of business in New York.

3. Based on information contained in the Complaint, Computer Associates asserts that David Lenihan and Jan Lenihan are citizens and residents of the Commonwealth of Massachusetts.

4. The Complaint concerns David Lenihan's employment with Computer Associates and the termination of his employment. David Lenihan asserts claims for wrongful termination of employment in violation of public policy, breach of contract, intentional interference with contractual relations, intentional deceit, intentional infliction of emotional distress, and breach of covenant of good faith and fair dealing. Jan Lenihan asserts a claim for loss of consortium.

5. David and Jan Lenihan seek, among other things, commission reimbursement of at least \$50,500, *see* Complaint at ¶¶ 17, 21, back pay, front pay, emotional distress damages, compensatory damages, and attorney's fees. Computer Associates has a good faith basis to believe that the alleged damages exceed \$75,000, exclusive of interest and costs.

6. The United States District Court for the District of Massachusetts has diversity jurisdiction over this matter because there is complete diversity of the parties and the amount in controversy exceeds \$75,000, exclusive of interest and costs. *See* 28 U.S.C. § 1332(a).

7. Copies of all process, pleadings, and orders served on Computer Associates in the Pending Action are attached to this Notice as Exhibit A.

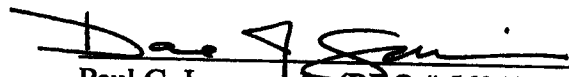
8. Pursuant to Local Rule 81.1(a), within thirty (30) days of the date hereunder, Computer Associates will file with this Court certified or attested copies of all records and proceedings in the state court and will file with this Court a certified or attested copy of all docket entries in the state court action.

WHEREFORE, Computer Associates requests that the Pending Action proceed before this Court as an action properly removed.

Respectfully submitted,
COMPUTER ASSOCIATES
INTERNATIONAL, INC.

By its attorneys,

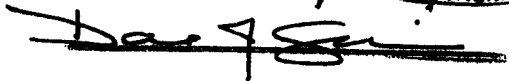
HOLLAND & KNIGHT LLP


Paul G. Lannon Jr. (BBO # 563404)
David J. Santeusano (BBO # 641270)
10. St. James Avenue
Boston, Massachusetts 02116
(617) 523-2700

Dated: August 2, 2004

2121086_v2

*I hereby certify under the pains and penalties
of perjury that this document was served upon
counsel for all parties in this case on
8/2/04 by Hand Delivered Mail*





TO PLAINTIFF'S ATTORNEY: PLEASE CIRCLE TYPE OF ACTION INVOLVED: —
 TORT — MOTOR VEHICLE TORT — CONTRACT —
 EQUITABLE RELIEF — OTHER

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX
 [seal], ss

SUPERIOR COURT
 DEPARTMENT
 OF THE
 TRIAL COURT
 CIVIL ACTION
 No. 04-2494

David Lenihan, Jan Lenihan
 Plaintiff(s)

v.

Computer Associates International, Inc.
 Defendant(s)

A TRUE COPY ATTEST

DEPUTY SHERIFF

7/9/04

SUMMONS

To the above-named Defendant:

You are hereby summoned and required to serve upon Peter H. Noone
 plaintiff's attorney, whose address is 90 Concord Avenue,
 Belmont, Massachusetts 02478, an answer to the complaint which is herewith
 served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you
 fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You are also
 required to file your answer to the complaint in the office of the Clerk of this court at Cambridge,
 Massachusetts either before service upon plaintiff's attorney or within a
 reasonable time thereafter.

Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim any claim which you may
 have against the plaintiff which arises out of the transaction or occurrence that is the subject matter of the plaintiff's
 claim or you will thereafter be barred from making such claim in any other action.

Witness, Suzanne V. DelVecchio, Esquire, at Cambridge, Massachusetts
 the 5th day of July
 2004, in the year of our Lord

Edward J. Sullivan
 Clerk

NOTES.

1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all such defendants should appear in the caption. If a separate summons is used for each defendant, each should be addressed to the particular defendant.

NOTICE TO DEFENDANT — You need not appear personally in court to answer the complaint, but if you claim to have a defense, either you or your attorney must serve a copy of your written answer within 20 days as specified herein and also file the original in the Clerk's Office.

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SUPERIOR COURT

C.A NO.: 04-2494

DAVID LENIHAN and JAN LENIHAN,)
Plaintiffs)

v.)

COMPUTER ASSOCIATES)
INTERNATIONAL, INC.,)
Defendant)

COMPLAINT

PARTIES

1. At all material times herein, the Plaintiff, David Lenihan, is an individual residing in Bristol County at 1 Fieldstone Circle, Norton, Massachusetts 02766.
2. At all material times herein, the Plaintiff, Jan Lenihan, an individual, is the wife of Plaintiff, David Lenihan, residing in Bristol County at 1 Fieldstone Circle, Norton, Massachusetts 02766.
3. The Defendant, Computer Associates International, Inc. (hereinafter "Computer Associates"), is a Delaware Corporation, having its principal place of business at One Computer Associates Plaza, Islandia, New York.
4. At all material times herein, the Defendant, Computer Associates, maintained a place of business located at 100 Staples Drive, Framingham, Middlesex County, Massachusetts.
5. At all material times herein, the Plaintiff, David Lenihan, was employed as a sales executive by the defendant, Computer Associates, in their Framingham Massachusetts office.
6. At all material times herein, the Plaintiff, David Lenihan, desired to work for Defendant until his retirement.

7. At all material times herein, Sanjay Kumar was the president of Computer Associates.

GENERAL ALLEGATIONS OF FACT

8. On or about October 10, 2000 the Plaintiff, David Lenihan, became employed as a sales executive in the Defendant, Computer Associates', Framingham, Massachusetts office.
9. At all material times, the Plaintiff, David Lenihan, reported to and acted under the supervision of Douglas Surette (hereinafter "Surette"), sales manager.
10. At all material times, Plaintiff, David Lenihan, reported to and acted under the supervision of Daniel Tunnell (hereinafter "Tunnell"), regional sales manager.
11. At all material times. Plaintiff, David Lenihan's salary was based on commission earned from working on various accounts assigned to him by Computer Associates.
12. From approximately March 2001 until June 2001, Plaintiff, David Lenihan, worked on the Putnam Investment account.
13. In June 2001, in connection with work performed on the Putnam Investment account, Plaintiff, David Lenihan, earned and was scheduled to receive \$100,000 (one hundred thousand dollars) in commissions.
14. In June 2001, Defendant's sales manager, Surette, and regional manager. Tunnell, ordered Plaintiff, Mr. Lenihan, to share his \$100,000 commission from his work on the Putnam Investment Account, with Surette and Tunnell.
15. Plaintiff, David Lenihan, expressed reluctance and apprehension about making the ordered payment.

16. Tunnell threatened Plaintiff, David Lenihan, that if he did not make payment, he would forfeit his commission in total.
17. In July 2001, at the direction of Tunnell and Surette, Plaintiff, David Lenihan, paid Tunnell and Surette a total of \$40,000 from his \$100,000 commission on the Putnam Investment Account.
18. Plaintiff, David Lenihan, paid the entire tax burden on the \$100,000 commission credited to him from the Putnam Investment Account.
19. In July 2001, Plaintiff, David Lenihan, met his quarterly revenue quota entitling him to receive a cash bonus (hereinafter, "quarterly consistency bonus").
20. Tunnell and Surette ordered Plaintiff, David Lenihan, to give two-thirds of his quarterly consistency bonus to Tunnell and Surette.
21. In September 2001, at the direction of Tunnell and Surette, Plaintiff, David Lenihan, paid Tunnell and Surette approximately \$10,500 taken from his quarterly consistency bonus.
22. On July 30, 2002, Plaintiff, David Lenihan, notified Computer Associates of the unlawful activity of Tunnell and Surette. The letter detailing the unlawful activity described was sent to the following employees of the Defendant, Computer Associates: Mr. Steven Woghin, Senior Vice President / General Counsel, Mr. Sanjay Kumar, President and Chief Executive Officer; Mr. Stephen Richards, Executive Vice President of Sales; Mr. Adam Feirstein, Regional Manager Human Resources, Ms. Sophie Pibouin, Area Sales Manager, Mr. Douglas Surette, Sales Manager and Ms. Juanita Cox, Employee Relations Specialist.
23. On or about August 1, 2002, Plaintiff, David Lenihan, discovered that based on the information he had reported, the defendant intended to terminate Surette from their employ.
24. On or about August 1, 2002, defendant informed Plaintiff, David Lenihan, they did not intend to terminate him from Computer Associates.

25. On or about August 6, 2002, counsel for Computer Associates scheduled a meeting with Plaintiff, David Lenihan, at his attorney's office in Belmont, Massachusetts to discuss plaintiff's allegations. Defendant's Counsel appeared, as did Mr. Lenihan. After meeting with another Computer Associates' employee, Defendant's counsel then cancelled the scheduled meeting, refused to meet with the plaintiff, and left.
26. On or about August 7, 2002, Plaintiff through counsel confirmed to Computer Associates' counsel that Plaintiff was present for the meeting and had nothing to do with Computer Associates' counsel canceling the meeting.
27. On August 19, 2002, Defendant terminated the Plaintiff, David Lenihan, from their employ.

**COUNT I
WRONGFUL TERMINATION
OF EMPLOYMENT IN VIOLATION OF PUBLIC POLICY
DAVID LENIHAN V. COMPUTER ASSOCIATES INTERNATIONAL, INC.**

28. The Plaintiffs repeat, reallege, and incorporate herein by reference all of the allegations contained in paragraphs one (1) through twenty-six (26), inclusive, as though fully set forth herein.
29. The Plaintiff, David Lenihan, and the Defendant were parties to an "at will" employment contract. Accordingly this "at will" employment contract included a covenant of good faith and fair dealing. Defendant breached the covenant of good faith and fair dealing by terminating Plaintiff, David Lenihan's, employment in retaliation for Plaintiff, , David Lenihan's, disclosure of the unlawful activity of the Defendant and/or those for whom the Defendant is responsible, cited herein.
30. By the foregoing actions, Computer Associates breached the covenant of good faith and fair dealing and acted in violation of public policy by terminating the employment of the Plaintiff, David Lenihan.

31. When terminated from his position in August of 2002, Plaintiff, David Lenihan, had intended to work for Computer Associates until retirement.
32. As result of the Defendant's wrongful acts, the Plaintiff, David Lenihan, has suffered and continues to suffer substantial loss of earnings, loss of employment benefits, and other incidental financial losses in an amount to be proven at trial.
33. As a result of the Defendant's wrongful acts, Plaintiff, David Lenihan, has suffered and continues to suffer loss of pay, humiliation, embarrassment, damage to reputation, emotional distress, headaches, sleeplessness, and anxiety.

WHEREFORE, Plaintiff, David Lenihan, demands judgment against the Defendant including back pay, front pay, compensatory damages, compensation for the damage to his reputation together with interest thereon, costs, attorney's fees and whatever other relief the Court deems just and appropriate.

COUNT TWO
BREACH OF EXPRESS AND IMPLIED IN FACT CONTRACT
DAVID LENIHAN V. COMPUTER ASSOCIATES INTERNATIONAL, INC.

34. The Plaintiffs repeat, reallege, and incorporates herein by reference all of the allegations contained in paragraphs one (1) through thirty two (32), inclusive, as though fully set forth herein.
35. The Plaintiff, David Lenihan, and the Defendant were parties to an "at will" employment contract. Said contract included covenants of good faith and fair dealing.
36. During the entirety of Plaintiff, David Lenihan's, employment with Computer Associates there existed an expressed and an implied employment contract between the Plaintiff, David Lenihan, and Computer Associates which included in part, the following terms and conditions:

- a. Plaintiff, David Lenihan, would be able to continue his employment with Defendant, Computer Associates, indefinitely so long as he carried out his duties in a proper and competent manner.
- b. Plaintiff, David Lenihan, would not be demoted, discharged or otherwise disciplined, nor would Plaintiff's job functions be reassigned for other than good cause with notice thereof.
- c. Defendant would not evaluate Mr. Lenihan's performance in an arbitrary, untrue, or capricious manner.
- d. Defendant would not use a pretext to terminate Mr. Lenihan's employment either directly or by means of coerced resignation or constructive discharge.

37. This totality of the employment contract between Plaintiff, David Lenihan, and Defendant is comprised of written documents between the parties; Defendant's oral representations to Mr. Lenihan; representations made by Defendant's agent's and Defendant's employees' to Mr. Lenihan, and by the parties course of dealing with one another.

38. The employment contract between the parties included, but was not limited to the following:

- a. (1) the written personnel policies of Defendant, Computer Associates; (2) correspondence from agents and employees of Defendant, Computer Associates to Plaintiff, David Lenihan.
- b. Computer Associates' policy, relied upon by the Plaintiff, David Lenihan, in his employment with Defendant, that an employee such as Mr. Lenihan who performed services as a good and faithful employee would continue employment with Defendant unless discharged for good and sufficient cause.
- c. Throughout Plaintiff, David Lenihan's, employment, Computer Associates' management represented to him, orally and in writing, that he was doing a satisfactory job. Mr. Lenihan relied upon Defendant's representations as evidence of his satisfactory performance.

39. Plaintiff, David Lenihan, reasonably relied on the Defendant's assurances, promises and representations provided to him throughout his employment that his performance was acceptable. Accordingly, based on Defendant's representations, Plaintiff, David Lenihan, reasonably believed his employment was secure; that there existed a contract of continuous employment with Defendant; that he could be terminated only for good cause with adequate notice; and that a pretext would not be used to terminate the Plaintiff's employment.

40. In consideration of the assurances, promises and representations made by Defendant, the Plaintiff, David Lenihan, undertook continued employment with Defendant, and at all times complied with his duties under the employment contract.

41. Defendant breached its obligations under the terms of the contract by terminating the Mr. Lenihan's employment on the basis of pretext.

41. Plaintiff, David Lenihan, states the true reason Defendant terminated his employment was in retaliation for his disclosures of violations of law, abuse of authority, and gross mismanagement.

42. The Defendant further breached the covenant of good faith and fair dealing by terminating the Plaintiff, David Lenihan's, employment without conducting a reasonable investigation into its obligations under said employment contract; for reasons extraneous to the contract; for the purpose of frustrating Mr. Lenihan's employment of the benefits of the contract; by terminating Mr. Lenihan's employment without good cause, and for reasons that have nothing to do with a legitimate business justification; and by using pretext to rid themselves of Mr. Lenihan so as to prevent discovery and disclosure of their illegal actions.

42. When terminated from his position in August of 2002, Plaintiff, David Lenihan, had intended to work for Defendant, Computer Associates, until retirement.

43. As a result of the Defendant's wrongful acts, the Plaintiff, David Lenihan, has suffered and continues to suffer substantial loss of earnings, loss of employment benefits, and other incidental financial losses in an amount to be proven at trial.

44. As a result of the Defendant's wrongful acts, Plaintiff, David Lenihan, has suffered and continues to suffer loss of pay, humiliation, embarrassment, damage to reputation, emotional distress, headaches, sleeplessness, and anxiety.

WHEREFORE, Plaintiff, David Lenihan, demands judgment against the Defendant including back pay, front pay, compensatory damages, compensation for the damage to his reputation together with interest thereon, costs, attorney's fees and whatever other relief the Court deems just and appropriate.

COUNT THREE
INTENTIONAL INTERFERENCE WITH CONTRACTUAL RELATIONS
DAVID LENIHAN V. COMPUTER ASSOCIATES INTERNATIONAL, INC.

45. The Plaintiffs repeat, reallege, and incorporate herein by reference all of the allegations contained in paragraphs one (1) through forty three (43), inclusive, as though fully set forth herein.

46. The Plaintiff, David Lenihan, had a contract of employment with Computer Associates where he was employed as a sales executive and desired to work until his retirement.

47. The Plaintiff, David Lenihan, was terminated from his position with Defendant for making disclosures of violations of law, abuse of authority, and gross mismanagement.

48. When terminated from his position in August of 2002, Plaintiff, David Lenihan, had intended to work for Defendant, Computer Associates, until retirement.

49. As a result of the Defendant's wrongful acts, the Plaintiff, David Lenihan, has suffered and continues to suffer substantial loss of earnings, loss of employment benefits, and other incidental financial losses in an amount to be proven at trial.

50. As a result of the Defendant's wrongful acts, Plaintiff, David Lenihan, has suffered and continues to suffer loss of pay, humiliation, embarrassment, damage to reputation, emotional distress, headaches, sleeplessness, and anxiety.

WHEREFORE, Plaintiff, David Lenihan, demands judgment against the Defendant including back pay, front pay, compensatory damages, compensation for the damage to his reputation together with interest thereon, costs, attorney's fees and whatever other relief the Court deems just and appropriate.

COUNT FOUR
LOSS OF CONSORTIUM
JAN LENIHAN V. COMPUTER ASSOCIATES, INTERNATIONAL, INC.

51. The Plaintiffs repeat, reallege, and incorporate herein by reference all of the allegations contained in paragraphs one (1) through fifty (50), inclusive, as though fully set forth herein.

52. As a result of the Defendant's actions herein, the Plaintiff, Jan Lenihan, has suffered the loss of consortium of her husband, David Lenihan, and has suffered by witnessing his embarrassment, loss of stature in his professional community, the stress placed on him, his inability to sleep normally, his change in temperament and by the loss normal comfort and support.

WHEREFORE, Plaintiff, Jan Lenihan, demands judgment against the Defendant including back pay, front pay, compensatory damages, compensation for the damage to his reputation together with interest thereon, costs, attorney's fees and whatever other relief the Court deems just and appropriate.

COUNT FIVE
INTENTIONAL DECEIT
DAVID LENIHAN V. COMPUTER ASSOCIATES INTERNATIONAL, INC.

53. The Plaintiffs repeat, reallege, and incorporate herein by reference all of the allegations contained in paragraphs one (1) through fifty one (51), inclusive, as though fully set forth herein.
54. Defendant, by and through its agents, servants, or employees, Tunnell and Surette, fraudulently ordered Plaintiff, David Lenihan, to pay to Tunnell and Surette a portion of the commission owed by Defendant to Plaintiff, David Lenihan.
55. Defendant, by and through its agents, servants, or employees, Tunnell and Surette, fraudulently ordered Plaintiff, David Lenihan, to give two thirds of his quarterly consistency bonus to Surette and Tunnell.
56. Defendant, Computer Associates, fraudulently told the Plaintiff, David Lenihan, that he was required to pay Tunnell and Surette a portion of his commission and quarterly consistency bonus.
57. Defendant, Computer Associates, and those acting on its behalf knew that the Plaintiff, David Lenihan, was not required to give part of his commission or his quarterly consistency bonus to Tunnell and Surette.
58. In reasonable reliance on Defendant Computer Associates' false representations that the Plaintiff, David Lenihan, was required to pay a portion of his commission and quarterly consistency bonus to Tunnell and Surette, Plaintiff, David Lenihan, paid in excess of \$55,000 to Tunnell and Surette.
59. As a result of the Defendant's wrongful acts, Plaintiff, David Lenihan, has suffered and continues to suffer loss of money earned, humiliation, embarrassment, emotional distress, headaches, sleeplessness, and anxiety.

WHEREFORE, Plaintiff, David Lenihan, demands judgment against the Defendant including back pay, front pay, compensatory damages, compensation for the damage to his reputation together with interest thereon, costs attorney's fees and whatever other relief the Court deems just and appropriate.

COUNT SIX
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
DAVID LENIHAN V. COMPUTER ASSOCIATES INTERNATIONAL, INC.

60. The Plaintiffs repeat, reallege, and incorporate herein by reference all of the allegations contained in paragraphs one (1) through fifty eight (58), inclusive, as though fully set forth herein.
61. The Defendant, Computer Associates, caused the Plaintiff, David Lenihan, to suffer severe emotional distress by doing the following:
- a. Wrongfully terminating the Plaintiff because of his refusal to go along with Defendant's illegal action.
 - b. Misrepresenting that the Plaintiff owed commission and ordering him to divest himself of his quarterly consistency bonus.
62. The conduct set forth hereinabove was extreme and outrageous. Said conduct was intended to cause severe emotional distress, or was done in conscious disregard of the probability of causing such distress. In particular, Defendant engaged in an intentional and dishonest course of conduct to create a pre-textual reason for terminating Mr. Lenihan's employment, when the real reason for the Plaintiff's termination was his objection to the Defendant's improper conduct.

63. The foregoing conduct did in fact cause the Plaintiff, David Lenihan, to suffer emotional distress. As a proximate result of said conduct, the Plaintiff, David Lenihan, suffered and continues to suffer pain, discomfort, anxiety, sleeplessness, uneasiness, grief and emotional distress.

64. The acts of the Defendant were carried out by the Defendant in a fraudulent, deliberate, egregious and inexcusable manner in order to injure and damage the Plaintiff, David Lenihan, thereby justifying an award to Plaintiff of exemplary damages in a sum appropriate to punish and make an example of Defendant.

WHEREFORE, Plaintiff, David Lenihan, demands judgment against the Defendant and back pay, front pay, compensatory damages, compensation for the damage to his reputation, punitive damages, reasonable attorney's fee together with interest thereon, his costs and whatever other relief the Court deems just and appropriate.

COUNT SEVEN
BREACH OF COVENANT OF GOOD FAITH AND FAIR DEALING
DAVID LENIHAN V. COMPUTER ASSOCIATES INTERNATIONAL, INC.

65. The Plaintiffs repeat, reallege, and incorporate herein by reference all of the allegations contained in paragraphs one (1) through sixty three (63), inclusive, as though fully set forth herein.

66. Plaintiff, David Lenihan, and Defendant were parties to an employment contract. Said contract included a covenant of good faith and fair dealing.

67. The covenant of good faith and fair dealing was breached by the termination of the Plaintiff, David Lenihan's employment in that said termination was:

- a. designed and intended to prevent disclosure of Defendant's illegal actions in dealing with customers;

- b. designed and intended to prevent the Plaintiff from disclosing Defendant's illegal actions in taking Plaintiff's commission and converting it to its use;
- c. designed and intended to avoid legal liability for the Defendant's illegal action;
- d. in violation of public policy in that it was done in retaliation against the Plaintiff for reporting such illegal activity to various company officials; and
- e. unjustly enriched Defendant by depriving the Plaintiff of compensation and benefits earned by Plaintiff's work.

68. By the forgoing actions, Computer Associates acted in violation of public policy and breached its covenant of good faith and fair dealing, and the Plaintiff, David Lenihan, suffered damage as a result.

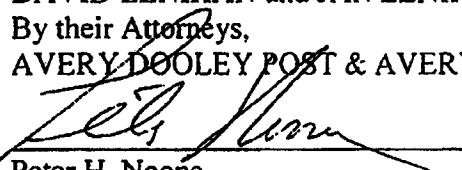
69. As a result of the Defendant's wrongful acts, Plaintiff, David Lenihan, has suffered and continues to suffer loss of earning and employment benefits, humiliation, embarrassment, emotional distress, headaches, sleeplessness, and anxiety.

WHEREFORE, Plaintiff, David Lenihan, demands judgment against the Defendant and back pay, front pay, compensatory damages, compensation for the damage to his reputation, together with interest thereon, his costs and whatever other relief the Court deems just and appropriate.

JURY CLAIM

The Plaintiffs claim a trial by jury on all issues.

Respectfully submitted,
DAVID LENIHAN and JAN LENIHAN
By their Attorneys,
AVERY DOOLEY POST & AVERY, LLP


Peter H. Noone
BBO #631341
90 Concord Avenue
Belmont, MA 02478
(617) 489-5300

Dated: June 18, 2004

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SUPERIOR COURT

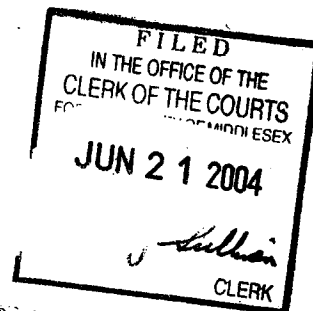
C.A NO.:

DAVID LENIHAN and JAN LENIHAN,
Plaintiffs

v.

COMPUTER ASSOCIATES
INTERNATIONAL, INC.,
Defendant

04-2494

COMPLAINTPARTIES

- At all material times herein, the Plaintiff, David Lenihan, is an individual residing in Bristol County at 1 Fieldstone Circle, Norton, Massachusetts 02766.
- At all material times herein, the Plaintiff, Jan Lenihan, an individual, is the wife of Plaintiff, David Lenihan, residing in Bristol County at 1 Fieldstone Circle, Norton, Massachusetts 02766.
- The Defendant, Computer Associates International, Inc. (hereinafter "Computer Associates"), is a Delaware Corporation, having its principal place of business at One Computer Associates Plaza, Islandia, New York.
- At all material times herein, the Defendant, Computer Associates, maintained a place business located at 100 Staples Drive, Framingham, Middlesex County, Massachusetts.
- At all material times herein, the Plaintiff, David Lenihan, was employed as a sales executive by the defendant, Computer Associates, in their Framingham Massachusetts office.
- At all material times herein, the Plaintiff, David Lenihan, desired to work for Defendant until his retirement.

06/21/04 10:33#0000 8451 CLERK E
240.00
CIVIL 480.00
SURCHARGE 15.00
SUMMONS 5.00
SECC 20.00
SUBTTL 520.00
TOTAL 520.00
CHECK 520.00

7. At all material times herein, Sanjay Kumar was the president of Computer Associates.

GENERAL ALLEGATIONS OF FACT

8. On or about October 10, 2000 the Plaintiff, David Lenihan, became employed as a sales executive in the Defendant, Computer Associates', Framingham, Massachusetts office.
9. At all material times, the Plaintiff, David Lenihan, reported to and acted under the supervision of Douglas Surette (hereinafter "Surette"), sales manager.
10. At all material times, Plaintiff, David Lenihan, reported to and acted under the supervision of Daniel Tunnell (hereinafter "Tunnell"), regional sales manager.
11. At all material times, Plaintiff, David Lenihan's salary was based on commission earned from working on various accounts assigned to him by Computer Associates.
12. From approximately March 2001 until June 2001, Plaintiff, David Lenihan, worked on the Putnam Investment account.
13. In June 2001, in connection with work performed on the Putnam Investment account, Plaintiff, David Lenihan, earned and was scheduled to receive \$100,000 (one hundred thousand dollars) in commissions.
14. In June 2001, Defendant's sales manager, Surette, and regional manager, Tunnell, ordered Plaintiff, Mr. Lenihan, to share his \$100,000 commission from his work on the Putnam Investment Account, with Surette and Tunnell.
15. Plaintiff, David Lenihan, expressed reluctance and apprehension about making the ordered payment.

16. Tunnell threatened Plaintiff, David Lenihan, that if he did not make payment, he would forfeit his commission in total.
17. In July 2001, at the direction of Tunnell and Surette, Plaintiff, David Lenihan, paid Tunnell and Surette a total of \$40,000 from his \$100,000 commission on the Putnam Investment Account.
18. Plaintiff, David Lenihan, paid the entire tax burden on the \$100,000 commission credited to him from the Putnam Investment Account.
19. In July 2001, Plaintiff, David Lenihan, met his quarterly revenue quota entitling him to receive a cash bonus (hereinafter, "quarterly consistency bonus").
20. Tunnell and Surette ordered Plaintiff, David Lenihan, to give two-thirds of his quarterly consistency bonus to Tunnell and Surette.
21. In September 2001, at the direction of Tunnell and Surette, Plaintiff, David Lenihan, paid Tunnell and Surette approximately \$10,500 taken from his quarterly consistency bonus.
22. On July 30, 2002, Plaintiff, David Lenihan, notified Computer Associates of the unlawful activity of Tunnell and Surette. The letter detailing the unlawful activity described was sent to the following employees of the Defendant, Computer Associates: Mr. Steven Woghin, Senior Vice President / General Counsel, Mr. Sanjay Kumar, President and Chief Executive Officer; Mr. Stephen Richards, Executive Vice President of Sales; Mr. Adam Feirstein, Regional Manager Human Resources, Ms. Sophie Pibouin, Area Sales Manager, Mr. Douglas Surette, Sales Manager and Ms. Juanita Cox, Employee Relations Specialist.
23. On or about August 1, 2002, Plaintiff, David Lenihan, discovered that based on the information he had reported, the defendant intended to terminate Surette from their employ.
24. On or about August 1, 2002, defendant informed Plaintiff, David Lenihan, they did not intend to terminate him from Computer Associates.

25. On or about August 6, 2002, counsel for Computer Associates scheduled a meeting with Plaintiff, David Lenihan, at his attorney's office in Belmont, Massachusetts to discuss plaintiff's allegations. Defendant's Counsel appeared, as did Mr. Lenihan. After meeting with another Computer Associates' employee, Defendant's counsel then cancelled the scheduled meeting, refused to meet with the plaintiff, and left.
26. On or about August 7, 2002, Plaintiff through counsel confirmed to Computer Associates' counsel that Plaintiff was present for the meeting and had nothing to do with Computer Associates' counsel canceling the meeting.
27. On August 19, 2002, Defendant terminated the Plaintiff, David Lenihan, from their employ.

**COUNT I
WRONGFUL TERMINATION
OF EMPLOYMENT IN VIOLATION OF PUBLIC POLICY
DAVID LENIHAN V. COMPUTER ASSOCIATES INTERNATIONAL, INC.**

28. The Plaintiffs repeat, reallege, and incorporate herein by reference all of the allegations contained in paragraphs one (1) through twenty-six (26), inclusive, as though fully set forth herein.
29. The Plaintiff, David Lenihan, and the Defendant were parties to an "at will" employment contract. Accordingly this "at will" employment contract included a covenant of good faith and fair dealing. Defendant breached the covenant of good faith and fair dealing by terminating Plaintiff, David Lenihan's, employment in retaliation for Plaintiff, David Lenihan's, disclosure of the unlawful activity of the Defendant and/or those for whom the Defendant is responsible, cited herein.
30. By the foregoing actions, Computer Associates breached the covenant of good faith and fair dealing and acted in violation of public policy by terminating the employment of the Plaintiff, David Lenihan.

31. When terminated from his position in August of 2002, Plaintiff, David Lenihan, had intended to work for Computer Associates until retirement.
32. As result of the Defendant's wrongful acts, the Plaintiff, David Lenihan, has suffered and continues to suffer substantial loss of earnings, loss of employment benefits, and other incidental financial losses in an amount to be proven at trial.
33. As a result of the Defendant's wrongful acts, Plaintiff, David Lenihan, has suffered and continues to suffer loss of pay, humiliation, embarrassment, damage to reputation, emotional distress, headaches, sleeplessness, and anxiety.

WHEREFORE, Plaintiff, David Lenihan, demands judgment against the Defendant including back pay, front pay, compensatory damages, compensation for the damage to his reputation together with interest thereon, costs, attorney's fees and whatever other relief the Court deems just and appropriate.

COUNT TWO
BREACH OF EXPRESS AND IMPLIED IN FACT CONTRACT
DAVID LENIHAN V. COMPUTER ASSOCIATES INTERNATIONAL, INC.

34. The Plaintiffs repeat, reallege, and incorporates herein by reference all of the allegations contained in paragraphs one (1) through thirty two (32), inclusive, as though fully set forth herein.
35. The Plaintiff, David Lenihan, and the Defendant were parties to an "at will" employment contract. Said contract included covenants of good faith and fair dealing.
36. During the entirety of Plaintiff, David Lenihan's, employment with Computer Associates there existed an expressed and an implied employment contract between the Plaintiff, David Lenihan, and Computer Associates which included in part, the following terms and conditions:

- a. Plaintiff, David Lenihan, would be able to continue his employment with Defendant, Computer Associates, indefinitely so long as he carried out his duties in a proper and competent manner.
- b. Plaintiff, David Lenihan, would not be demoted, discharged or otherwise disciplined, nor would Plaintiff's job functions be reassigned for other than good cause with notice thereof.
- c. Defendant would not evaluate Mr. Lenihan's performance in an arbitrary, untrue, or capricious manner.
- d. Defendant would not use a pretext to terminate Mr. Lenihan's employment either directly or by means of coerced resignation or constructive discharge.

37. This totality of the employment contract between Plaintiff, David Lenihan, and Defendant is comprised of written documents between the parties; Defendant's oral representations to Mr. Lenihan; representations made by Defendant's agent's and Defendant's employees' to Mr. Lenihan, and by the parties course of dealing with one another.

38. The employment contract between the parties included, but was not limited to the following:

- a. (1) the written personnel policies of Defendant, Computer Associates; (2) correspondence from agents and employees of Defendant, Computer Associates to Plaintiff, David Lenihan.
- b. Computer Associates' policy, relied upon by the Plaintiff, David Lenihan, in his employment with Defendant, that an employee such as Mr. Lenihan who performed services as a good and faithful employee would continue employment with Defendant unless discharged for good and sufficient cause.
- c. Throughout Plaintiff, David Lenihan's, employment, Computer Associates' management represented to him, orally and in writing, that he was doing a satisfactory job. Mr. Lenihan relied upon Defendant's representations as evidence of his satisfactory performance.

39. Plaintiff, David Lenihan, reasonably relied on the Defendant's assurances, promises and representations provided to him throughout his employment that his performance was acceptable. Accordingly, based on Defendant's representations, Plaintiff, David Lenihan, reasonably believed his employment was secure; that there existed a contract of continuous employment with Defendant; that he could be terminated only for good cause with adequate notice; and that a pretext would not be used to terminate the Plaintiff's employment.
40. In consideration of the assurances, promises and representations made by Defendant, the Plaintiff, David Lenihan, undertook continued employment with Defendant, and at all times complied with his duties under the employment contract.
41. Defendant breached its obligations under the terms of the contract by terminating the Mr. Lenihan's employment on the basis of pretext.
41. Plaintiff, David Lenihan, states the true reason Defendant terminated his employment was in retaliation for his disclosures of violations of law, abuse of authority, and gross mismanagement.
42. The Defendant further breached the covenant of good faith and fair dealing by terminating the Plaintiff, David Lenihan's, employment without conducting a reasonable investigation into its obligations under said employment contract; for reasons extraneous to the contract; for the purpose of frustrating Mr. Lenihan's employment of the benefits of the contract; by terminating Mr. Lenihan's employment without good cause, and for reasons that have nothing to do with a legitimate business justification; and by using pretext to rid themselves of Mr. Lenihan so as to prevent discovery and disclosure of their illegal actions.
42. When terminated from his position in August of 2002, Plaintiff, David Lenihan, had intended to work for Defendant, Computer Associates, until retirement.

43. As a result of the Defendant's wrongful acts, the Plaintiff, David Lenihan, has suffered and continues to suffer substantial loss of earnings, loss of employment benefits, and other incidental financial losses in an amount to be proven at trial.

44. As a result of the Defendant's wrongful acts, Plaintiff, David Lenihan, has suffered and continues to suffer loss of pay, humiliation, embarrassment, damage to reputation, emotional distress, headaches, sleeplessness, and anxiety.

WHEREFORE, Plaintiff, David Lenihan, demands judgment against the Defendant including back pay, front pay, compensatory damages, compensation for the damage to his reputation together with interest thereon, costs, attorney's fees and whatever other relief the Court deems just and appropriate.

COUNT THREE
INTENTIONAL INTERFERENCE WITH CONTRACTUAL RELATIONS
DAVID LENIHAN V. COMPUTER ASSOCIATES INTERNATIONAL, INC.

45. The Plaintiffs repeat, reallege, and incorporate herein by reference all of the allegations contained in paragraphs one (1) through forty three (43), inclusive, as though fully set forth herein.

46. The Plaintiff, David Lenihan, had a contract of employment with Computer Associates where he was employed as a sales executive and desired to work until his retirement.

47. The Plaintiff, David Lenihan, was terminated from his position with Defendant for making disclosures of violations of law, abuse of authority, and gross mismanagement.

48. When terminated from his position in August of 2002, Plaintiff, David Lenihan, had intended to work for Defendant, Computer Associates, until retirement.

49. As a result of the Defendant's wrongful acts, the Plaintiff, David Lenihan, has suffered and continues to suffer substantial loss of earnings, loss of employment benefits, and other incidental financial losses in an amount to be proven at trial.

50. As a result of the Defendant's wrongful acts, Plaintiff, David Lenihan, has suffered and continues to suffer loss of pay, humiliation, embarrassment, damage to reputation, emotional distress, headaches, sleeplessness, and anxiety.

WHEREFORE, Plaintiff, David Lenihan, demands judgment against the Defendant including back pay, front pay, compensatory damages, compensation for the damage to his reputation together with interest thereon, costs, attorney's fees and whatever other relief the Court deems just and appropriate.

COUNT FOUR
LOSS OF CONSORTIUM
JAN LENIHAN V. COMPUTER ASSOCIATES, INTERNATIONAL, INC.

51. The Plaintiffs repeat, reallege, and incorporate herein by reference all of the allegations contained in paragraphs one (1) through fifty (50), inclusive, as though fully set forth herein.

52. As a result of the Defendant's actions herein, the Plaintiff, Jan Lenihan, has suffered the loss of consortium of her husband, David Lenihan, and has suffered by witnessing his embarrassment, loss of stature in his professional community, the stress placed on him, his inability to sleep normally, his change in temperament and by the loss normal comfort and support.

WHEREFORE, Plaintiff, Jan Lenihan, demands judgment against the Defendant including back pay, front pay, compensatory damages, compensation for the damage to his reputation together with interest thereon, costs, attorney's fees and whatever other relief the Court deems just and appropriate.

COUNT FIVE
INTENTIONAL DECEIT
DAVID LENIHAN V. COMPUTER ASSOCIATES INTERNATIONAL, INC.

53. The Plaintiffs repeat, reallege, and incorporate herein by reference all of the allegations contained in paragraphs one (1) through fifty one (51), inclusive, as though fully set forth herein.
54. Defendant, by and through its agents, servants, or employees, Tunnell and Surette, fraudulently ordered Plaintiff, David Lenihan, to pay to Tunnell and Surette a portion of the commission owed by Defendant to Plaintiff, David Lenihan.
55. Defendant, by and through its agents, servants, or employees, Tunnell and Surette, fraudulently ordered Plaintiff, David Lenihan, to give two thirds of his quarterly consistency bonus to Surette and Tunnell.
56. Defendant, Computer Associates, fraudulently told the Plaintiff, David Lenihan, that he was required to pay Tunnell and Surette a portion of his commission and quarterly consistency bonus.
57. Defendant, Computer Associates, and those acting on its behalf knew that the Plaintiff, David Lenihan, was not required to give part of his commission or his quarterly consistency bonus to Tunnell and Surette.
58. In reasonable reliance on Defendant Computer Associates' false representations that the Plaintiff, David Lenihan, was required to pay a portion of his commission and quarterly consistency bonus to Tunnell and Surette, Plaintiff, David Lenihan, paid in excess of \$55,000 to Tunnell and Surette.
59. As a result of the Defendant's wrongful acts, Plaintiff, David Lenihan, has suffered and continues to suffer loss of money earned, humiliation, embarrassment, emotional distress, headaches, sleeplessness, and anxiety.

WHEREFORE, Plaintiff, David Lenihan, demands judgment against the Defendant including back pay, front pay, compensatory damages, compensation for the damage to his reputation together with interest thereon, costs attorney's fees and whatever other relief the Court deems just and appropriate.

COUNT SIX
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
DAVID LENIHAN V. COMPUTER ASSOCIATES INTERNATIONAL, INC.

60. The Plaintiffs repeat, reallege, and incorporate herein by reference all of the allegations contained in paragraphs one (1) through fifty eight (58), inclusive, as though fully set forth herein.
61. The Defendant, Computer Associates, caused the Plaintiff, David Lenihan, to suffer severe emotional distress by doing the following:
- a. Wrongfully terminating the Plaintiff because of his refusal to go along with Defendant's illegal action.
 - b. Misrepresenting that the Plaintiff owed commission and ordering him to divest himself of his quarterly consistency bonus.
62. The conduct set forth hereinabove was extreme and outrageous. Said conduct was intended to cause severe emotional distress, or was done in conscious disregard of the probability of causing such distress. In particular, Defendant engaged in an intentional and dishonest course of conduct to create a pre-textual reason for terminating Mr. Lenihan's employment, when the real reason for the Plaintiff's termination was his objection to the Defendant's improper conduct.

63. The foregoing conduct did in fact cause the Plaintiff, David Lenihan, to suffer emotional distress. As a proximate result of said conduct, the Plaintiff, David Lenihan, suffered and continues to suffer pain, discomfort, anxiety, sleeplessness, uneasiness, grief and emotional distress.

64. The acts of the Defendant were carried out by the Defendant in a fraudulent, deliberate, egregious and inexcusable manner in order to injure and damage the Plaintiff, David Lenihan, thereby justifying an award to Plaintiff of exemplary damages in a sum appropriate to punish and make an example of Defendant.

WHEREFORE, Plaintiff, David Lenihan, demands judgment against the Defendant and back pay, front pay, compensatory damages, compensation for the damage to his reputation, punitive damages, reasonable attorney's fee together with interest thereon, his costs and whatever other relief the Court deems just and appropriate.

COUNT SEVEN
BREACH OF COVENANT OF GOOD FAITH AND FAIR DEALING
DAVID LENIHAN V. COMPUTER ASSOCIATES INTERNATIONAL, INC.

65. The Plaintiffs repeat, reallege, and incorporate herein by reference all of the allegations contained in paragraphs one (1) through sixty three (63), inclusive, as though fully set forth herein.

66. Plaintiff, David Lenihan, and Defendant were parties to an employment contract. Said contract included a covenant of good faith and fair dealing.

67. The covenant of good faith and fair dealing was breached by the termination of the Plaintiff, David Lenihan's employment in that said termination was:

- a. designed and intended to prevent disclosure of Defendant's illegal actions in dealing with customers;

- b. designed and intended to prevent the Plaintiff from disclosing Defendant's illegal actions in taking Plaintiff's commission and converting it to its use;
- c. designed and intended to avoid legal liability for the Defendant's illegal action;
- d. in violation of public policy in that it was done in retaliation against the Plaintiff for reporting such illegal activity to various company officials; and
- e. unjustly enriched Defendant by depriving the Plaintiff of compensation and benefits earned by Plaintiff's work.

68. By the forgoing actions, Computer Associates acted in violation of public policy and breached its covenant of good faith and fair dealing, and the Plaintiff, David Lenihan, suffered damage as a result.

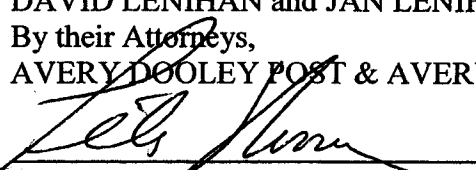
69. As a result of the Defendant's wrongful acts, Plaintiff, David Lenihan, has suffered and continues to suffer loss of earning and employment benefits, humiliation, embarrassment, emotional distress, headaches, sleeplessness, and anxiety.

WHEREFORE, Plaintiff, David Lenihan, demands judgment against the Defendant and back pay, front pay, compensatory damages, compensation for the damage to his reputation, together with interest thereon, his costs and whatever other relief the Court deems just and appropriate.

JURY CLAIM

The Plaintiffs claim a trial by jury on all issues.

Respectfully submitted,
DAVID LENIHAN and JAN LENIHAN
By their Attorneys,
AVERY DOOLEY POST & AVERY, LLP


Peter H. Noone
BBO #631341
90 Concord Avenue
Belmont, MA 02478
(617) 489-5300

Dated: June 18, 2004

CIVIL ACTION COVER SHEET

DOCKET NO.(S)
01-2494

Filed 08/05/2004

Trial Court of Massachusetts
Superior Court Department

County: Middlesex



PLAINTIFF(S)

DAVID LENIHAN, JAN LENIHAN

DEFENDANT(S)

COMPUTER ASSOCIATES INTERNATIONAL, INC.

ATTORNEY, FIRM NAME, ADDRESS AND TELEPHONE

Peter H. Noone, AVERY DOOLEY POST & AVERY, LLP
90 Concord Ave., Belmont, MA 02478 (617) 489-5300

Board of Bar Overseers number: 631341

ATTORNEY (if known)

Origin code and track designation

Place an x in one box only:

- | | |
|---|---|
| <input checked="" type="checkbox"/> 1. F01 Original Complaint | <input type="checkbox"/> 4. F04 District Court Appeal c.231, s. 97 & 104 (After trial) (X) |
| <input type="checkbox"/> 2. F02 Removal to Sup.Ct. C.231,s.104 (Before trial) (F) | <input type="checkbox"/> 5. F05 Reactivated after rescript; relief from judgment/Order (Mass.R.Civ.P. 60) (X) |
| <input type="checkbox"/> 3. F03 Retransfer to Sup.Ct. C.231,s.102C (X) | <input type="checkbox"/> 6. E10 Summary Process Appeal (X) |

TYPE OF ACTION AND TRACK DESIGNATION (See reverse side)

CODE NO.	TYPE OF ACTION (specify)	TRACK	IS THIS A JURY CASE?
A99; B99	Breach of employment contract Wrongful Termination	(F)	(X) Yes () No

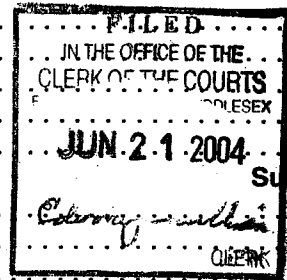
The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.

TORT CLAIMS

(Attach additional sheets as necessary)

A. Documented medical expenses to date:

- | | | |
|------------------------------------|----|--|
| 1. Total hospital expenses | \$ | |
| 2. Total Doctor expenses | \$ | |
| 3. Total chiropractic expenses | \$ | |
| 4. Total physical therapy expenses | \$ | |
| 5. Total other expenses (describe) | \$ | |



Subtotal \$

B. Documented lost wages and compensation to date

C. Documented property damages to date

D. Reasonably anticipated future medical and hospital expenses

E. Reasonably anticipated lost wages

F. Other documented items of damages (describe)

Loss of commission; loss of bonus \$ 110,000

G. Brief description of plaintiff's injury, including nature and extent of injury (describe)

Loss of employment; lost wages; back pay; front pay; pain and suffering; damage to reputation; loss of consortium; consequential damages; loss of bonuses; loss of commissions

TOTAL \$ 310,000

CONTRACT CLAIMS

(Attach additional sheets as necessary)

Provide a detailed description of claim(s):

Plaintiff was wrongfully terminated; plaintiff was terminated in violation of public policy; employer breached covenant of good faith and fair dealing; employer terminated employment without cause and in violation of law and public policy; as a result, plaintiff has suffered loss of pay; loss of job opportunities; loss of future pay.

TOTAL \$ 310,000

PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT

"I hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods."

Signature of Attorney of Record

Peter H. Noone

DATE: June 8, 2004

MIDDLESEX SUPERIOR COURT

Case Summary

Civil Docket

MICV2004-02494

Lenihan et al v Computer Associates International, Inc.

File Date	06/21/2004	Status	Disposed: transfered to other court (dtrans)
Status Date	08/02/2004	Session	E - Cv E (7B Cambridge)
Origin	1	Case Type	A99 - Misc contract
Lead Case		Track	F

Service	09/19/2004	Answer	11/18/2004	Rule12/19/20	11/18/2004
Rule 15	11/18/2004	Discovery	04/17/2005	Rule 56	05/17/2005
Final PTC	06/16/2005	Disposition	08/15/2005	Jury Trial	Yes

Plaintiff
David Lenihan
1 Fieldstone Circle
Norton, MA 02766
Active 06/21/2004

Private Counsel 631341
Peter H Noone
Avery Dooley Post & Avery
90 Concord Avenue
Belmont, MA 02478
Phone: 617-489-5300
Fax: 617-489-0085
Active 06/21/2004 Notify

Plaintiff
Jan Lenihan
Active 06/21/2004

*** See Attorney Information Above ***

Defendant
Computer Associates International, Inc.
One Computer Associates Plaza
Service pending 06/21/2004

Private Counsel 563404
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Active 08/02/2004 Notify

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Fax: 617-523-6850
Active 08/02/2004 Notify

Date	Paper	Text
06/21/2004	1.0	Complaint & civil action cover sheet filed
06/21/2004		Origin 1, Type A99, Track F.

MICV2004-02494
Lenihan et al v Computer Associates International, Inc.

Date	Paper	Text
08/02/2004	2.0	Case REMOVED this date to US District Court of Massachusetts by deft Computer Associates International, Inc
08/02/2004		ABOVE ACTION THIS DAY REMOVED TO US DISTRICT COURT